

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
(MACON DIVISION)

CERTUS BANK, N.A., as successor)
by assignment to ATLANTIC)
SOUTHERN BANK,)

Plaintiff,)

vs.)

GENE DUNWODY, JR., GENE DUNWODY,)
SR., JACK W. JENKINS, W. TONY)
LONG, and L. ROBERT LOVETT,)

Defendants.)

CIVIL ACTION FILE

NO. 5:14-cv-00069-CAR

DEPOSITION OF WILLIAM T. LONG, SR.
OCTOBER 30, 2014
1:50 P.M.



CERTIFIED COURT REPORTERS

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1 APPEARANCES OF COUNSEL

2 On behalf of the Plaintiff:

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12 * * *

13 MR. SMITH: We are on the record in the
14 case of CertusBank NA, a successor by
15 assignment to Atlantic Southern Bank, versus
16 Gene Dunwody, Jr., Gene Dunwody, Sr., Jack W.
17 Jenkins, W. Tony Long and L. Robert Lovett.
18 It's Case No. 5:14-cv-00069-CAR pending in the
19 Middle District of Georgia.

20 This is the deposition of W. Tony Long.
21 The deposition is being taken by notice and
22 agreement of counsel and the parties for
23 purposes of discovery and all other purposes
24 permitted by the Federal Rules of Civil
25 Procedure.

1 Present in the room is Mr. Long and his
2 counsel, Mr. Wes Boyer.

3 If you could please swear the witness in
4 at this time.

5 EUGENE C. DUNWODY, JR.,
6 having been first duly sworn, was deposed and testified as
7 follows:

8 EXAMINATION

9 BY MR. SMITH:

10 Q Mr. Long, can you just state your full
11 name for the record, please.

12 A William T. Long.

13 Q And the T is for Tony?

14 A No, but that's what they call me.

15 Q Okay. Have you been deposed before?

16 A A few times, yes.

17 Q Okay. So I'll try to be brief with these
18 instructions.

19 You are under oath, so you have to answer
20 the questions as if you were in court. If you don't
21 understand any of the questions I ask, just let me
22 know. I'm happy to rephrase them and the court
23 reporter can also read the question back to you from
24 the record, if necessary.

25 If you do answer the question, I'm going

1 to assume you've heard it and that you've understood
2 the question and you've given me the best
3 recollection of what you know.

4 Because the court reporter is taking all
5 this down, if you could avoid responses with a nod
6 of the head or an uh-huh or some kind of response
7 that would be difficult to read in a transcript,
8 that would be appreciated.

9 If you need a break, just let me know.
10 The only thing I would ask is, if there is a
11 question pending, that you finish the question
12 before you take the break -- finish answering the
13 question before you take the break.

14 Do you have any questions before we start?

15 A No.

16 Q Were you a member of Capricorn Center LLC?

17 A Yes.

18 Q What did that entity go into business for?
19 What was its purpose?

20 A To make money.

21 Q Okay. Was it --

22 A Hopefully.

23 Q Was it developing real estate? What was
24 it engaged in?

25 A It would be developing a piece of

1 property, yes.

2 Q And what piece of property was it formed
3 to develop?

4 A All the pieces that were bought by
5 Capricorn, Inc.

6 Q You mean -- you mean Capricorn Center,
7 LLC?

8 A Yes, Capricorn Center.

9 Q I didn't know if you were referring to
10 another company.

11 A No, no, just the one.

12 Q Okay. And where was that property
13 located?

14 A Is that the 600 block of MLK?

15 Q I can't answer the questions, but if
16 that's your recollection.

17 A Yeah, I think that's what it is.

18 Q Okay. And did Capricorn Center, LLC, to
19 your knowledge, borrow money from Atlantic Southern
20 Bank?

21 A We did.

22 Q And do you know, as you sit here today, if
23 all of the money that was borrowed was paid back in
24 full?

25 A I don't know for sure, but I doubt it or I

1 wouldn't be sitting here.

2 Q Fair enough. Did you guarantee the loans
3 that were made by Atlantic Southern to Capricorn
4 Center, LLC?

5 A I would have signed the paperwork with
6 everybody. I don't know exactly -- I don't remember
7 exactly what the details were.

8 I'm assuming that we did, but I'm not
9 really sure that that's how -- I've had loans that
10 weren't guaranteed, so.

11 Q I didn't get your current home address.
12 What is that?

13 A 642 Orange Street, Macon 31201.

14 Q And are you currently employed?

15 A Yes.

16 Q What is your occupation?

17 A I'm a painting contractor and --

18 Q Are you --

19 A -- whatever else.

20 Q Are you self-employed in that business?

21 A Yes.

22 Q You don't have an entity that you work
23 through or anything like that?

24 In other words, do you have a company that
25 you run to do painting contracting or are you just

1 self-employed as Tony long?

2 A It's A.T. Long & Son, but it's only me.

3 Q And what is your work address?

4 A 642 Orange Street.

5 Q So it's the same as your residence?

6 A Same.

7 Q Okay.

8 A It's actually that Ford truck outside.

9 All the paperwork is in the front seat.

10 Q I understand. Do you have any other
11 lawsuits pending against you right now, other than
12 this one?

13 A I don't think so. Nobody is harassing me.
14 (Whereupon, previously marked Exhibit 4
15 entered.)

16 BY MR. SMITH:

17 Q Okay. If you could please turn to Exhibit
18 4 in the binder that's in front of you.

19 This is a Guaranty dated April 16th,
20 2010 that you signed in favor of Atlantic Southern
21 Bank; is that correct?

22 A That's what I'm looking at, yes.

23 Q Okay. If you could turn to Page 3.

24 Is that your signature on the bottom of
25 the page?

1 A It appears to be, yes.

2 Q And are those your initials at the bottom
3 of each page?

4 A They do look like my initials.

5 Q As far as you know, is this a true and
6 correct copy of the document that you signed?

7 A As far as I know, yes.

8 Q This Guaranty -- if you look at Section 2
9 on the first page, it references a Promissory Note
10 No. [REDACTED] 4500 dated April 16, 2010 from Capricorn
11 Center in the amount of \$176,452.13.

12 Do you see that?

13 A Uh-huh, yes, I do.

14 Q And then it goes on, towards the bottom of
15 that section, it has a cap amount of \$33,045 of the
16 principal amount plus accrued interest, attorney's
17 fees and collection costs, et cetera.

18 Is it your understanding, when you signed
19 this, that you were guaranteeing that \$176,000 note
20 to the limit of that cap that's referenced in here?

21 A Yes. I would have, yes.

22 Q Okay. Can you turn to --

23 A We're not necessarily saying that that's
24 the amount that we owe right now, either, or are we?

25 Q I'm not supposed to be answering the

1 **questions during this deposition.**

2 A Well, I didn't know that. I thought you
3 were clarifying stuff. I need a clarification on
4 that.

5 Q I'm sorry. You want me to clarify the
6 question I asked you?

7 A Well --

8 Q What's your question? Go ahead.

9 A Well, I was just wondering if, at this
10 point, with all of the interest and all the extra
11 payments we made toward the end to keep this thing
12 from going under, if we actually would owe that
13 amount plus, you know, we made payments all along.

14 I was just wondering what the amount of
15 liability actually would be if we were in default.

16 Q Well, that's what this lawsuit is about.
17 I mean, we're -- the bank is suing for what it
18 contends is left owing?

19 MR. BOYER: I think what he's saying is
20 he's not sure what the debt is.

21 MR. SMITH: Okay.

22 BY MR. SMITH:

23 Q Is that what you're saying?

24 A Uh-huh, yes.

25 Is the lawsuit for \$33,000, I guess is

1 what I'm saying, or is it \$10,316?

2 Q Well --

3 A Or zero.

4 Q Well, what I asked you before was -- we
5 talked about the note that's referenced in this
6 Guaranty.

7 A Uh-huh, yes.

8 Q And there is a \$176,000 note and change.
9 And the language says that your liability will not
10 exceed \$33,045 of the principal amount. It does not
11 say everybody's liability.

12 So my question to you was: Was it your
13 understanding, that when you signed this, that you
14 were responsible for guaranteeing that debt up to
15 the amount that is referenced here?

16 A And I understand that question and I
17 answered yes. And just being inquisitive, I just --
18 you know, I haven't heard what we're being sued for,
19 what amount or anything, and I just was wondering if
20 you had that knowledge.

21 Q Yes, I -- I do know what -- what the bank
22 is suing for and it is referenced in the Complaint
23 that was filed in this case.

24 And I will be asking you some questions
25 about that Complaint a little bit later on in the

1 deposition.

2 A Okay.

3 (Whereupon, previously marked Exhibit 13
4 entered.)

5 BY MR. SMITH:

6 Q Okay. If you could turn to Exhibit 13,
7 please.

8 This is another Guaranty that's dated
9 April 16th, 2008 and it is signed by you in favor
10 of Atlantic Southern Bank; is that correct?

11 A Yes.

12 Q If you could turn to Page 3 of that
13 document, please.

14 Is that your signature at the bottom of
15 the page?

16 A I would say yes.

17 Q And are those your initials on the bottom
18 of each page of this document?

19 A Yes, it looks like it.

20 Q Is this a true and correct copy of the
21 document that you signed?

22 A I would assume so, yes.

23 Q Okay. This Guaranty, in Section 2 on the
24 first page, it references a different note, No.
25 402-06-4300, dated April 16th, 2008 from Capricorn

1 Center, LLC in the amount of \$1,286,835.

2 Do you see that?

3 A I see that.

4 Q And this Guaranty states that your
5 liability will not exceed \$241,280 of the principal
6 amount that's outstanding at default, et cetera.

7 Is it your understanding, that when you
8 signed this, that you would be liable for the
9 borrower's debt under that note up to that cap
10 amount, the \$241,280?

11 A Yes, knowing that once -- if the property
12 was ever sold by anybody, it wouldn't be that full
13 amount. But I knew all that when I signed it, yes.

14 (Whereupon, previously marked Exhibit 19
15 entered.)

16 BY MR. SMITH:

17 Q Okay. If you could turn to Exhibit 19,
18 please. And just one -- one more over. I think
19 you're in 18.

20 And I'm going to represent to you that
21 this is the Complaint that has been filed in this
22 case.

23 If you could turn to Page 10 of the
24 Complaint, I'd like you to look at Paragraph 73.
25 This paragraph says: "As of February 18th, 2014,

1 principal accrued but unpaid interest and accrued
2 fees and charges outstanding under Note 2 are as
3 follows."

4 Now I'm going to represent to you that
5 Note 2 is referring to the roughly \$1.2 million note
6 that we talked about earlier.

7 Do you have any reason to believe that, as
8 of February 18th, 2014, the amounts that are
9 asserted here as still owing under that note are
10 incorrect?

11 A I wouldn't have any way at all of knowing
12 whether they're correct or incorrect.

13 Q Okay. If you could turn back to Page 6,
14 please. Take a look at Paragraph 43. And this
15 paragraph similarly says: "As of February 18th,
16 2014, principal accrued but unpaid interest and
17 accrued fees and charges outstanding under Note 1
18 are as follows."

19 I'm going to represent to you that note
20 one, as referred to in this document, is the
21 \$176,000 note that was referenced earlier in the
22 deposition.

23 Do you have any reason to believe that the
24 amounts asserted as outstanding in Paragraph 43 are
25 incorrect?

1 A Again, I just -- they're figures and they
2 add up to what it says, but I'm not sure what -- you
3 know.

4 Q Okay. So you don't know, one way or the
5 other?

6 A No.

7 (Whereupon, previously marked Exhibit 21
8 entered.)

9 BY MR. SMITH:

10 Q Okay. If you could turn to Exhibit 21,
11 please. This is a letter dated August 7th, 2012
12 and it is addressed to you at 140 Hines Terrace,
13 Macon, Georgia 31204.

14 Do you recognize this letter? Have you
15 ever seen it before?

16 A I don't recognize it. I can't say that I
17 sent it. I wasn't living there at that point.

18 Q Was the 140 Hines Terrace address a former
19 address of yours?

20 A It was.

21 Q How much communication did you have with
22 Atlantic Southern or CertusBank during the course of
23 this loan?

24 A With Atlantic Southern, a fair amount.
25 With Certus, it's very little.

1 Q Do you recall ever telling Certus that you
2 no longer lived at 140 Hines Terrace?

3 A I don't know whether I did or not, but
4 they knew that because I get other stuff that --
5 from them.

6 I didn't get anything from -- that was
7 mailed. I don't know why it would have been mailed
8 there. They have my correct address.

9 (Whereupon, previously marked Exhibit 22
10 entered.)

11 BY MR. SMITH:

12 Q Okay. If you could turn to Exhibit 22.

13 This is another letter dated August 17,
14 2012. Again, this appears to be sent to what you
15 have said is an address that was an older address;
16 is that right?

17 A Yes.

18 Q Do you ever remember receiving a copy of
19 this letter?

20 A I do not, just like the other one.

21 Q You did receive a copy of the Complaint
22 that was filed in this case, though, correct?

23 A I had seen that at Gene's office. I don't
24 remember getting a copy. And I may have, but I
25 don't remember it.

1 And I really thought it had all been
2 cleared up when it went to court last time and we
3 won.

4 Q Are you talking about the foreclosure
5 confirmation case?

6 A Whatever it was.

7 MR. SMITH: I don't have any other
8 questions.

9 MR. BOYER: Okay. I don't have any
10 questions.

11 MR. SMITH: Thank you.

12 (Deposition Concluded)

C E R T I F I C A T E

- - - - -

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript was taken down as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 16 represent a true and correct transcript of the evidence given upon said hearing, and I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

This the 1st day of December, 2014.

KELLY A. EMERY, CCR-B-941

\$	accrued 8:16 address 6:11 7:3 agreement 2:22 ahead 9:8 amount 8:11,15,16, 24 9:13,14 10:10,15, 19 answering 4:12 8:25 APPEARANCES 2:1 appears 8:1 appreciated 4:8 April 7:19 8:10 assignment 2:15 assume 4:1 assuming 6:8 Atlanta 2:5 Atlantic 2:15 5:19 6:3 7:20 attorney's 8:16 Avenue 2:9 avoid 4:5	C	develop 5:3 developing 4:23,25 difficult 4:7 discovery 2:23 District 2:19 document 8:6 doubt 5:25 duly 3:6 Dunwody 2:16 3:5	G
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